

§ 1201.16

36 CFR Ch. XII (7-1-03 Edition)

(d) If you are an employee of a Federal agency other than NARA, by initiating certification procedures to implement a salary offset by that Federal agency (*see* subpart C of this part). 5 U.S.C. 5514 governs such proceedings;

(e) By referring the debt to the Treasury for offset against any refund of overpayment of tax (*see* subpart D of this part);

(f) By administrative offset (*see* subpart E of this part);

(g) By administrative wage garnishment (*see* subpart F of this part); or

(h) By liquidation of security or collateral. NARA has the right to hold security or collateral, liquidate it, and apply the proceeds to your debt through the exercise of a power of sale in the security instrument or a foreclosure. NARA will not follow the procedures in this paragraph (h) if the cost of disposing the collateral will be disproportionate to its value.

§ 1201.16 What will the notice tell me about my opportunity for review of my debt?

The notice provided by NARA under §§ 1201.14 and 1201.15 will also advise you of the opportunity to obtain a review within NARA concerning the existence or amount of the debt or the proposed schedule for offset of Federal employee salary payments. The notice will also advise you of the following:

(a) The name, address, and telephone number of a NARA official whom you may contact concerning procedures for requesting a review;

(b) The method and time period for requesting a review;

(c) That the filing of a request for a review on or before the 60th day following the date of the notice will stay the commencement of collection proceedings;

(d) The name and address of the NARA official to whom you should send the request for a review;

(e) That a final decision on the review (if one is requested) will be issued in writing at the earliest practical date, but not later than 60 days after the receipt of the request for a review, unless you request, and the review official grants, a delay in the proceedings;

(f) That any knowingly false or frivolous statements, representations, or evidence may subject you to:

(1) Disciplinary procedures appropriate under 5 U.S.C. Chapter 75, 5 CFR part 752, or any other applicable statute or regulations;

(2) Penalties under the False Claims Act (31 U.S.C. 3729-3733) or any other applicable statutory authority; and

(3) Criminal penalties under 18 U.S.C. 286, 287, 1001, and 1002, or any other applicable statutory authority;

(g) Any other rights available to you to dispute the validity of the debt or to have recovery of the debt waived, or remedies available to you under statutes or regulations governing the program for which the collection is being made; and

(h) That unless there are applicable contractual or statutory provisions to the contrary, amounts paid on or deducted for the debt that are later waived or found not owed will be promptly refunded to you.

§ 1201.17 What must I do to obtain a review of my debt, and how will the review process work?

(a) *Request for review.* (1) You have the right to request a review by NARA of the existence or amount of your debt, the proposed schedule for offset of Federal employee salary payments, or whether the debt is past due or legally enforceable. If you want a review, you must send a written request to the NARA official designated in the notice (*see* § 1201.16(d)).

(2) You must sign your request for review and fully identify and explain with reasonable specificity all the facts, evidence, and witnesses that support your position. Your request for review should be accompanied by available evidence to support your contentions.

(3) Your request for review must be received by the designated officer or employee of NARA on or before the 60th calendar day following the date of the notice. Timely filing will stay the commencement of collection procedures. NARA may consider requests filed after the 60-day period provided for in this section if you:

(i) Can show that the delay was the result of circumstances beyond your control; or

(ii) Did not receive notice of the filing deadline (unless you had actual notice of the filing deadline).

(b) *Inspection of NARA records related to the debt.* (1) If you want to inspect or copy NARA records related to the debt (see § 1201.14(a)(5)), you must send a letter to the NARA official designated in the notice. Your letter must be received within 30 days of the date of the notice.

(2) In response to the timely request described in paragraph (b)(1) of this section, the designated NARA official will notify you of the location and time when you may inspect and copy records related to the debt.

(3) If personal inspection of NARA records related to the debt is impractical, reasonable arrangements will be made to send you copies of those records.

(c) *Review official.* (1) When required by Federal law or regulation, such as in a salary offset situation, NARA will request an administrative law judge, or hearing official from another agency who is not under the supervision or control of the Archivist, to conduct the review. In these cases, the hearing official will, following the review, submit the review decision to the Archivist for the issuance of NARA's final decision (see paragraph (f) of this section for content of the review decision).

(2) When Federal law or regulation does not require NARA to have the review conducted by an administrative law judge, or by a hearing official from another agency who is not under the supervision or control of the Archivist, NARA has the right to appoint a hearing official to conduct the review. In these cases, the hearing official will, following the review, submit the review decision to the Archivist for the issuance of NARA's final decision (see paragraph (f) of this section for the content of the review decision).

(d) *Review procedure.* If you request a review, the review official will notify you of the form of the review to be provided. The review official will determine whether an oral hearing is required, or if a review of the written

record is sufficient, in accordance with the FCCS. Although you may request an oral hearing, such a hearing is required only when a review of the documentary evidence cannot determine the question of indebtedness, such as when the validity of the debt turns on an issue of credibility or truthfulness. In either case, the review official will conduct the review in accordance with the FCCS. If the review will include an oral hearing, the notice sent to you by the review official will set forth the date, time, and location of the hearing.

(e) *Date of decision.* (1) The review official will issue a written decision, based upon either the written record or documentary evidence and information developed at an oral hearing. This decision will be issued as soon as practical, but not later than 60 days after the date on which NARA received your request for a review, unless you request, and the review official grants, a delay in the proceedings.

(2) If NARA is unable to issue a decision within 60 days after the receipt of the request for a hearing:

(i) NARA may not issue a withholding order or take other action until the hearing (in whatever form) is held and a decision is rendered; and

(ii) If NARA previously issued a withholding order to the debtor's employer, NARA must suspend the withholding order beginning on the 61st day after the receipt of the hearing request and continuing until a hearing (in whatever form) is held and a decision is rendered.

(f) *Content of review decision.* The review official will prepare a written decision that includes:

(1) A statement of the facts presented to support the origin, nature, and amount of the debt;

(2) The review official's findings, analysis, and conclusions; and

(3) The terms of any repayment schedule, if applicable.

(g) *Interest, penalty charge, and administrative cost accrual during review period.* Interest, penalty charges, and administrative costs authorized by law will continue to accrue during the review period.